

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/EP2005/001924	International filing date (day/month/year) 23.02.2005	Priority date (day/month/year) 03.03.2004
International Patent Classification (IPC) or both national classification and IPC A01N37/40		
Applicant ISAGRO S.P.A.		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

- If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Hillenbrand, G Telephone No. +49 89 2399-8428	
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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No:
PCT/EP2005/001924

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, Inventive step or
Industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-21
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21
Industrial applicability (IA)	Yes: Claims	1-21
	No: Claims	

2. Citations and explanations

see separate sheet

D1: WO 00/05954 A (STOLLER ENTERPRISES, INC) 10 February 2000 (2000-02-10)

D2: WO 03/077654 A (SHOWA DENKO K. K; SAKURAI, HASEO; FUKUYA, HIROKI; ANZAI, FUKUMI) 25 September 2003 (2003-09-25)

D3: WO 03/043971 A (ISAGRO S.P.A; FILIPPINI, LUCIO; GUSMEROLI, MARILENA; ELMINI, ALEXIA; G) 30 May 2003 (2003-05-30)

D4: WO 03/079790 A (ISAGRO S.P.A; BONFIGLIOLI, MAURO; FILIPPINI, LUCIO) 2 October 2003 (2003-10-02)

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claims 1-21** is not new in the sense of Article 33(2) PCT. Documents **D1-D4** disclose already a "blend" comprising two or more compounds selected from at least two of the following groups:

- (i) salicylic acid and/or its functional analogues products (ESA)
- (ii) promoting compounds (PRO) and
- (iii) modulating compounds (MOD)

for stimulating the natural defence systems of plants and inducing resistance in plants.

Further comments

The attention of the applicant is drawn to the fact that the large number of possible compounds which fall under the extremely broadly worded claims is not supported by the description as filed (objection under Article 6 PCT). When entering into the European regional phase the number of compounds claimed will have to be reduced drastically in view of the limited number of examples/compounds for which the desired technical effect indeed has been shown. Imprecise designations like "promoting compounds" or "modulating compounds" are not considered suitable to clearly define the claimed matter as required under Article 6 PCT. Furthermore, the attention of the applicant is directed

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International application No.

PCT/EP2005/001924

to the fact that unity of invention can only be acknowledged for those compounds exhibiting **structural and functional similarities**.